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June 28, 1983

Mr. William S. Tassie, Chief  
Liquor Law Enforcement  
New Hampshire Liquor Commission  
Storrs Street  
Concord, New Hampshire 03301

Dear Mr. Tassie:

In your memorandum dated April 5, 1983, you have inquired whether a person employed by a liquor representative or a wine solicitor must be similarly licensed if the nature of the employee's only work is to erect displays. You have also asked whether such a person would be subject to the conflict-of-interest provision in RSA 175:17 if the person had been an employee of the Commission within the past two years.

Regulations could be drawn to authorize the activity in question, but until such regulations are promulgated, the present statutory scheme requires a qualified "yes" to both questions.

Neither RSA 175:17, which establishes the position of liquor representative, nor RSA 178-A:7, which creates the position of wine solicitor, define the positions, nor do these statutes suggest the extent to which certain functions could be performed by non-licensees. Liquor Regulation 401.05 prohibits a wine or liquor solicitor (presumably including a liquor representative) from participating in a sales promotion at a state store without the Commission's permission, and thus offers, by regulation, a description of some sales functions which are to be regulated. It is clear that any handling of liquor is subject to the Commission's approval on licensed premises, and, implicitly, at state stores. Liquor Regulation 404.01.

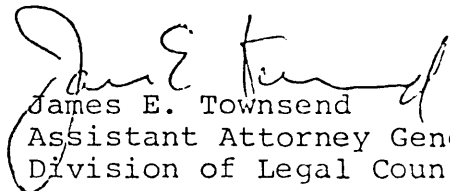


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I assume that the handling of displays involves both sales promotion and the handling of liquor, and I am therefore of the view that it is up to the Commission to indicate, by regulation, whether these activities can be delegated to non-licensees.

If the Commission determines that only a sales representative can erect displays, then the two-year conflict-of-interest provision of RSA 175:17 would apply. On the other hand, if the Commission were to authorize employees of the sales representative to act on their behalf, it would not apply. In any event, the actions taken on behalf of the solicitor or liquor representative would be the responsibility of the licensee.

Very truly yours,

  
James E. Townsend  
Assistant Attorney General  
Division of Legal Counsel

JET/smg  
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